

Transcript of Subsequent Parole
Consideration Hearing,
Board of Prison Terms for Tony Sims
(February 5, 2004)

SER 142 - 202

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PRISON TERMS

In the matter of the Life)	
Term Parole Consideration)	CDC Number C-31090
Hearing of:)	
)	
TONY SIMS)	
)	

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

FEBRUARY 5, 2004

12:10 P.M.

PANEL PRESENT:

SHARON LAWIN, Presiding Commissioner
KEN RISEN, Commissioner
ROBERT HARMON, Deputy Commissioner

OTHERS PRESENT:

TONY SIMS, Inmate
DAVID SPOWART, Attorney for Inmate
DAVID DAHLE, Deputy District Attorney

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____	No
_____	Yes

See Review of Hearing
Transcript Memorandum

Valerie Lord, Transcriber Capitol Electronic Reporting

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P R O C E E D I N G S

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DEPUTY COMMISSIONER HARMON: We're on record.

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PRESIDING COMMISSIONER LAWIN: This is a Subsequent Parole Consideration Hearing for Tony Sims, CDC number C-31090. Today is February 5th, 2004. We're located at CTF, and the time is 12:10. Mr. Sims was received in CDC May 29th, 1981, from Los Angeles County, case number A194636, for violation of Penal Code Section 187, that's murder first, count number one. Terms of 25 years to life. Minimum eligible parole date July 2nd, 1994. There's also a robbery, that's Penal Code Section 211, same Los Angeles County case number, and we have an enhancement to that under 12022(A), armed; both of those are stayed. Mr. Sims, as you know, these hearings are tape-recorded. So for voice identification purposes, we're going to go around the room and identify ourselves. Each of us will state our first and last name, spell our last name. When we come to you, I need for you to do that, plus give us your CDC number.

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INMATE SIMS: Yes, Ma'am.

PRESIDING COMMISSIONER LAWIN: I'll begin and go to my left. Sharon Lawin, L-A-W-I-N, Commissioner.

1 **COMMISSIONER RISEN:** Ken Risen, R-I-S-E-N,
2 Commissioner.

3 **DEPUTY COMMISSIONER HARMON:** Robert Harmon,
4 H-A-R-M-O-N, Deputy Commissioner.

5 **DEPUTY DISTRICT ATTORNEY DAHLE:** David
6 Dahle, D-A-H-L-E, Deputy District Attorney from
7 Los Angeles County.

8 **ATTORNEY SPOWART:** David Spowart,
9 S-P-O-W-A-R-T, attorney for Mr. Sims.

10 **INMATE SIMS:** Tony Sims, S-I-M-S, C number
11 C-31090.

12 **PRESIDING COMMISSIONER LAWIN:** Thank you,
13 that identifies all parties in the room with the
14 exception of two correctional peace officers who
15 are here for security purposes. Mr. Sims, on
16 October 3rd of 2003, you signed a BPT 1073 form.
17 The form inquires as to whether or not you have
18 any disabilities as defined by the Americans with
19 Disabilities Act. You indicated on that form that
20 you do not have a disability. Now I do see,
21 however, that you are wearing glasses, are they
22 prescription lenses?

23 **INMATE SIMS:** Yes, they are.

24 **PRESIDING COMMISSIONER LAWIN:** That would be
25 considered an accommodation under the Americans
26 with Disabilities Act for a disability. The
27 disability is reduced vision or inability to see.

1 Are there any other such accommodations, such as
2 your glasses, that you need in order to
3 participate in the hearing today?

4 **INMATE SIMS:** No, Ma'am.

5 **PRESIDING COMMISSIONER LAWIN:** Did you have
6 any difficulty arriving at the hearing room?

7 **INMATE SIMS:** No, Ma'am.

8 **COMMISSIONER RISEN:** Speak louder.

9 **INMATE SIMS:** No, Ma'am.

10 **PRESIDING COMMISSIONER LAWIN:** Do you have
11 any prescriptions that you're taking right now?

12 **INMATE SIMS:** No, Ma'am.

13 **PRESIDING COMMISSIONER LAWIN:** And you have
14 what level of education?

15 **INMATE SIMS:** I completed my GED while
16 incarcerated.

17 **PRESIDING COMMISSIONER LAWIN:** And when you
18 were on the outside, how far did you get in
19 school?

20 **INMATE SIMS:** The 11th grade.

21 **PRESIDING COMMISSIONER LAWIN:** Well, we'll
22 find that you do have a disability under the ADA,
23 and that would be reduced vision, but your glasses
24 are the appropriate accommodation.

25 **INMATE SIMS:** Okay.

26 **PRESIDING COMMISSIONER LAWIN:** Counsel, any
27 comments regarding ADA?

1 **ATTORNEY SPOWART:** No, I believe you covered
2 it.

3 **PRESIDING COMMISSIONER LAWIN:** Thank you.
4 Our purpose today is to decide on your suitability
5 for parole. In arriving at our decision, we will
6 consider the crime that brought you to state
7 prison, crimes, your background, your social
8 history, and your post-conviction, which is your
9 behavior since your incarceration. We'll focus
10 primarily on your behavior since your last
11 hearing. We will utilize counselor's reports,
12 psychological reports, and any other information
13 that has a bearing on your suitability. We have
14 reviewed your Central File, prior hearing
15 transcripts, and we'll give you and Mr. Spowart
16 the opportunity to make corrections and
17 clarifications to the record as we go.

18 **INMATE SIMS:** Yes, Ma'am.

19 **PRESIDING COMMISSIONER LAWIN:** The two of
20 you, as well as Mr. Dahle, will have the
21 opportunity to make a closing statement regarding
22 your suitability for parole and length of
23 confinement. The law and the Board of Prison
24 Terms' rules state that in reaching our decision
25 today, we will consider whether or not your
26 release would pose an unreasonable risk of danger
27 to others. And if at the end of today's hearing,

1 we conclude your release would pose a danger to
2 others, you will be denied a parole date. You are
3 not required to discuss the commitment offense
4 with the Panel, and you are not required to admit
5 to the offense. If you choose not to speak to the
6 Panel about the crime, the fact that you did
7 decide not to speak to us will not be held against
8 you. We do accept as true the court's findings.
9 We are not here to retry your case. We are here
10 to decide only on your suitability for parole.
11 You are afforded a number of rights for this
12 hearing. They include the right to a timely
13 notice, to present relevant documents, and to do
14 an Olsen Review. Mr. Spowart, have your client's
15 rights been met thus far to the best of your
16 knowledge?

17 **ATTORNEY SPOWART:** Yes, they have.

18 **PRESIDING COMMISSIONER LAWIN:** One
19 additional right you have, Mr. Sims, is to a fair
20 and impartial Panel. Now that you've seen the
21 three Panel members before you, do you have any
22 objections to the members of the Panel?

23 **INMATE SIMS:** No, I don't.

24 **PRESIDING COMMISSIONER LAWIN:** Counsel, any
25 objections to the members of the Panel?

26 **ATTORNEY SPOWART:** I have none.

27 **PRESIDING COMMISSIONER LAWIN:** Do you have

1 any preliminary objections?

2 **ATTORNEY SPOWART:** I have none.

3 **PRESIDING COMMISSIONER LAWIN:** Thank you. I
4 marked a hearing checklist as exhibit, this is to
5 try and make sure that we're all dealing with the
6 same set of documents. And I know that this
7 checklist states that current Board report and
8 current psych report not available for this
9 hearing, but in actuality, we have both, I have
10 both. So I want to make sure, first of all,
11 Mr. Spowart, that you received all the documents,
12 including the Board and psych report?

13 **ATTORNEY SPOWART:** I have and I talked to my
14 client and he reviewed both of them, so --

15 **PRESIDING COMMISSIONER LAWIN:** All right,
16 thank you. Mr. Dahle.

17 **DEPUTY DISTRICT ATTORNEY DAHLE:** Contrary to
18 the document, yes, I do have all of the documents,
19 the same as Mr. Spowart.

20 **PRESIDING COMMISSIONER LAWIN:** Thank you,
21 and I have crossed off the comments that they
22 weren't available. Will your client be speaking
23 with us today?

24 **ATTORNEY SPOWART:** Not about the life crime.

25 **PRESIDING COMMISSIONER LAWIN:** All right,
26 but about other matters?

27 **ATTORNEY SPOWART:** About other matters, yes.

1 **PRESIDING COMMISSIONER LAWIN:** Thank you.
2 Then if you'll raise your right hand I'll swear
3 you in. Do you solemnly swear or affirm that your
4 testimony at this hearing will be the truth, the
5 whole truth, and nothing but the truth?

6 **INMATE SIMS:** Yes, I do.

7 **PRESIDING COMMISSIONER LAWIN:** Thank you.
8 You'll receive, as before, a copy of what's called
9 the tentative written decision today. It's
10 tentative until it goes through the Decision
11 Review Process. Then after they've issued the
12 final decision, they'll send a copy of it to you,
13 along with a transcript, and you have 90 days from
14 the date you receive that in which to file an
15 appeal if you wish to do so.

16 **INMATE SIMS:** Yes, Ma'am.

17 **PRESIDING COMMISSIONER LAWIN:** All right,
18 any questions?

19 **INMATE SIMS:** No.

20 **PRESIDING COMMISSIONER LAWIN:** Okay,
21 Commissioner Harmon, do we have any confidential
22 to be used today?

23 **DEPUTY COMMISSIONER HARMON:** No, we don't.

24 **ATTORNEY SPOWART:** Commissioner?

25 **PRESIDING COMMISSIONER LAWIN:** Yes, sir.

26 **ATTORNEY SPOWART:** Before you start, my
27 client had prepared an opening statement, it's

1 short, it's only five lines and he'd like to read
2 it to you.

3 **PRESIDING COMMISSIONER LAWIN:** Oh, sure,
4 before we go any further you'd like to read that?

5 **ATTORNEY SPOWART:** Yeah, yes.

6 **PRESIDING COMMISSIONER LAWIN:** And I
7 neglected one other thing to ask you and that is
8 if there were any additional documents for our
9 review.

10 **ATTORNEY SPOWART:** Yeah, post-conviction
11 factors --

12 **PRESIDING COMMISSIONER LAWIN:** I thought
13 there might be.

14 **ATTORNEY SPOWART:** He has prepared a packet
15 here.

16 **PRESIDING COMMISSIONER LAWIN:** Give it to
17 Commissioner Harmon.

18 **COMMISSIONER RISEN:** I know, I'm just
19 looking at it.

20 **PRESIDING COMMISSIONER LAWIN:** Oh, unless
21 there, are there any support letters in there?

22 **INMATE SIMS:** No, those are just
23 certificates.

24 **PRESIDING COMMISSIONER LAWIN:** I wanted to
25 make sure. All right, please go ahead.

26 **INMATE SIMS:** I would like to first thank
27 Mr. Angele, even though he's not here, but I would

1 like to thank him for believing in me enough last
2 year to give me a chance. I'd also like to say to
3 the members of this Panel today what I have said
4 to every Panel that I have been in front of since
5 1994. Never have I ever tried to downplay my role
6 in the case of Mr. Albert Owens. Everything I
7 have stated in the past is a fact. As I believed
8 then and as I believe today, and as I will believe
9 throughout my life, it was senseless, wrong, and
10 despicable and no intelligent or sane person could
11 ever justify the taking of someone else's life.
12 Thank you.

13 **PRESIDING COMMISSIONER LAWIN:** Thank you.
14 We're going to go to the Statement of Facts, and
15 Mr. Spowart, if you have no objection, I'm going
16 to incorporate that by reference from the
17 Appellate Court opinion, pages two through seven.

18 **ATTORNEY SPOWART:** I have no objection.

19 **PRESIDING COMMISSIONER LAWIN:** All right,
20 and I do want to put on the record a couple of
21 things. First of all, we certainly refer the
22 reader of the transcript to that document. But
23 there are additional documents for their review;
24 the probation officer's report, as well as the
25 previous decisions of the Board, and the Board
26 report itself. And under the summary of crime in
27 the Board report, dated September 2003, there's a

1 long paragraph, but I'm going to read that into
2 the record. It states, on Wednesday,
3 February 28th, 1979, a friend of Sims, subject,
4 Alfred Coward, C-O-W-A-R-D, co-defendant, came
5 over to the residence of Sims asking quote, "do
6 you know a place we could rob," closed quote.
7 Sims said, no. Sims then left with Coward and two
8 other individuals, Stanley Williams, co-defendant,
9 to get some Shermans, PCP laced cigarettes. While
10 at Williams' place, Sims smoked some Shermans.
11 All four individuals departed in two separate
12 cars, Sims with Coward and Williams with Darrell.
13 They drove around the Pomona, Los Angeles area.
14 They initially stopped at an unknown location,
15 where Williams obtained a 22-caliber revolver,
16 which he gave to Darrell. Alfred Coward saw
17 Darrell load a shotgun which had been in the
18 possession of both Darrell and Williams during the
19 course of the evening. The foursome then
20 proceeded to three separate locations. First to a
21 restaurant to obtain some cigarettes, and then to
22 a liquor store. Both sites were possible robbery
23 targets. All four subjects then went to a 7-11
24 convenience store, as Williams was in need of gas
25 money. Darrell and Sims entered the store first.
26 They were followed by the clerk who'd been
27 cleaning the parking lot. When Coward and

1 Williams entered the store, they moved to each
2 side of the clerk. Williams told the clerk, keep
3 walking, and told Coward to go back to the room.
4 No gun was visible at the time. As Coward and
5 Williams walked to the back room, Sims was
6 standing at the counter in front of the cash
7 register and Darrell was behind the counter
8 removing money from the cash register. In the
9 back room, Williams ordered the clerk to lie down.
10 When the clerk complied, Coward saw that Williams
11 had the shotgun he had seen earlier in the
12 evening. Sims heard the sound of the gun being
13 pumped, heard a shot followed by the sound of
14 breaking glass, then heard the pumping action and
15 two more shots in rapid succession. At the sound
16 of the first shot, Coward turned around and began
17 walking about the back room. He saw Sims walk
18 away from the cash register toward the front door.
19 Darrell came from behind the counter and also
20 moved toward the door. Coward followed the two
21 men out of the store and shortly thereafter
22 Williams emerged. The four men then fled on the
23 605 freeway. Arriving at Sims residence, Sims was
24 given \$10 by Williams. The above information was
25 taken from the probation officer's report, pages
26 six, seven, eight and nine, from the Second
27 Appellate District Court. There's also a

1 prisoner's version that is located in the same
2 Board report, for the September 2003 calendar. It
3 states, in the interview for this Board report on
4 10/23/03, Sims stated that his version remains the
5 same as stated during the October 2002 Board
6 report. The October 2002 Board report has the
7 prisoner's version, as follows: Sims states that
8 offense summary is an accurate report of the
9 incident. Sims states he was arrested March 23rd,
10 1979, at his residence. Sims stressed he did not
11 want to participate in the crime, but was afraid
12 of Williams. Sims stated Williams was a notorious
13 individual who intimidated almost everyone in the
14 neighborhood. Williams had a shotgun in his hand
15 and Sims was intimidated for fear of being hurt or
16 shot by Williams. Sims stated that he questioned
17 Coward and Williams about why they shot the clerk.
18 Williams informed Sims that he did not want to
19 leave any witnesses. Sims claims he became highly
20 upset and requested Coward drop him off at home
21 even though, and it should be though, even though
22 they wanted to rob another location. Sims has
23 expressed remorse and that he is quote, "sincerely
24 sorry," closed quote, for the death of the clerk.
25 Sims stated quote, "there was no reason for the
26 shooting," end of quote. Sims states he did not
27 want to see anybody die as he had recently

1 experienced the death of his father and brothers.
2 Sims admits he was there at the time and maybe if
3 he wasn't there things would have turned out
4 differently. This situation is always on his
5 mind, everyday. And I just add that to what
6 Mr. Sims said, stated today. And also for the
7 record, it is noted the sentencing, at sentencing
8 that Mr. Sims was deemed to be, to have aided,
9 abetted and assisted in this murder, but he was
10 not the shooter. Moving on to Mr. Sims'
11 background, there is contact with law enforcement
12 beginning as a juvenile, correct?

13 **INMATE SIMS:** Yes, Ma'am.

14 **PRESIDING COMMISSIONER LAWIN:** And first
15 there was a vehicle theft, in which you were
16 placed on six months informal probation. Then --
17 and that was January 8th, 1972 -- August 13th,
18 1973, grand theft auto, declared a ward of the
19 court, but placed home on probation.

20 **INMATE SIMS:** Yes, Ma'am.

21 **PRESIDING COMMISSIONER LAWIN:** And then we
22 moved to adult convictions, which were
23 November 6th, 1974, carrying a concealed weapon, a
24 firearm, for which you received around 180 days in
25 jail; that was sentence was suspended and you were
26 placed on three years probation.

27 **INMATE SIMS:** Yes, Ma'am.

1 **PRESIDING COMMISSIONER LAWIN:** January 28th,
2 1975, petty theft, with no disposition shown, did
3 they drop the charges?

4 **INMATE SIMS:** I don't remember.

5 **PRESIDING COMMISSIONER LAWIN:** Don't recall.
6 March 20th, 1975, robbery, and he was not formally
7 charged according to the report. There, in fact,
8 was false information provided to a police
9 officer, there was no actual victim, is that how
10 it played out?

11 **INMATE SIMS:** Yes, Ma'am.

12 **PRESIDING COMMISSIONER LAWIN:** May 5th,
13 1975, possession of marijuana, for which he pled
14 guilty, received two days in jail, time for credit
15 served or credit for time served. And
16 February 2nd, 1976, being in a location where
17 controlled substance was being used, what did they
18 do with that one?

19 **INMATE SIMS:** I think they dismissed it, I'm
20 not -- I think they dismissed it, I'm not for
21 sure.

22 **PRESIDING COMMISSIONER LAWIN:** There's no
23 disposition shown on it, none at all, on the CI
24 and I. And then March, or rather, August 22nd,
25 1978, burglary, 90 days in jail, was the sentence
26 with three years probation. And November 11th,
27 1978, burglary, malicious mischief, again with no

1 disposition shown. Do you know what happened to
2 that last burglary, was it, it was like four
3 months before the commitment offense?

4 **INMATE SIMS:** I think I was given probation.

5 **PRESIDING COMMISSIONER LAWIN:** Are there any
6 other convictions that I neglected to mention?

7 **INMATE SIMS:** No.

8 **PRESIDING COMMISSIONER LAWIN:** Well, let's
9 see, as far as your background goes, the records
10 indicate that you were born in Minden, Louisiana?

11 **INMATE SIMS:** Yes, Ma'am.

12 **PRESIDING COMMISSIONER LAWIN:** With a date
13 of birth, June 22nd, 1956.

14 **INMATE SIMS:** Yes, Ma'am.

15 **PRESIDING COMMISSIONER LAWIN:** Parents
16 Louis, or rather, is it Louise?

17 **INMATE SIMS:** Louise.

18 **PRESIDING COMMISSIONER LAWIN:** Louise and
19 Robert. Family moved to Los Angeles, according to
20 the counselor's report, when you were about six
21 years old.

22 **INMATE SIMS:** Yes.

23 **PRESIDING COMMISSIONER LAWIN:** Stayed there
24 for the remainder of his life prior to the crime.
25 And it says that your father worked as a mechanic
26 prior to his death in 1978.

27 **INMATE SIMS:** Yes, he did.

1 **PRESIDING COMMISSIONER LAWIN:** And your
2 mother as a part time domestic worker, and she is
3 currently receiving social security.

4 **INMATE SIMS:** Yes, Ma'am.

5 **PRESIDING COMMISSIONER LAWIN:** Is that due
6 to disability or due to age?

7 **INMATE SIMS:** Disability.

8 **PRESIDING COMMISSIONER LAWIN:** Disability.

9 **INMATE SIMS:** Disability.

10 **PRESIDING COMMISSIONER LAWIN:** And you were
11 living with your mother at the time of the
12 commitment offense?

13 **INMATE SIMS:** Yes, I was.

14 **PRESIDING COMMISSIONER LAWIN:** Now you have
15 a brother David and he died of a drug overdose in
16 1978.

17 **INMATE SIMS:** Yes, Ma'am.

18 **PRESIDING COMMISSIONER LAWIN:** How old was
19 he?

20 **INMATE SIMS:** I'm not for sure at that
21 particular time. I think right now he would
22 probably be --

23 **PRESIDING COMMISSIONER LAWIN:** But at the
24 time of his death was he a teenager or --

25 **INMATE SIMS:** No, he was about 32.

26 **PRESIDING COMMISSIONER LAWIN:** I see.

27 **INMATE SIMS:** Something like that.

1 **PRESIDING COMMISSIONER LAWIN:** And then you
2 have three other brothers, Gary, Robert and
3 Matthew.

4 **INMATE SIMS:** Yes.

5 **PRESIDING COMMISSIONER LAWIN:** And they've
6 had some troubles.

7 **INMATE SIMS:** Well, Gary's deceased. Robert
8 is serving time for murder and Matthew is the
9 youngest, he's doing okay now, he's out.

10 **PRESIDING COMMISSIONER LAWIN:** Okay, at the
11 time this counselor's report was written, it said
12 that your brother Robert was at Pelican Bay. Do
13 you know where he's located currently?

14 **INMATE SIMS:** I think he's in Calipatria.

15 **PRESIDING COMMISSIONER LAWIN:** Married
16 Patricia in 1981, and divorced.

17 **INMATE SIMS:** Yes, Ma'am.

18 **PRESIDING COMMISSIONER LAWIN:** And you have
19 one child from that relationship, is it Tenisha?

20 **INMATE SIMS:** Tenisha.

21 **PRESIDING COMMISSIONER LAWIN:** If I'm not
22 mistaken, did she appear at a Board meeting, it
23 seems to me --

24 **INMATE SIMS:** No.

25 **PRESIDING COMMISSIONER LAWIN:** No, she
26 didn't, okay. She's still attending college?

27 **INMATE SIMS:** Yes.

1 **PRESIDING COMMISSIONER LAWIN:** And then you
2 have a son, Tony.

3 **INMATE SIMS:** Yes, Ma'am.

4 **PRESIDING COMMISSIONER LAWIN:** From another
5 relationship. Are you currently married?

6 **INMATE SIMS:** Yes, Ma'am.

7 **PRESIDING COMMISSIONER LAWIN:** And do you
8 have any children from --

9 **INMATE SIMS:** From this marriage, yes.

10 **PRESIDING COMMISSIONER LAWIN:** This
11 marriage.

12 **INMATE SIMS:** Yes, Tony.

13 **PRESIDING COMMISSIONER LAWIN:** Tony is from
14 this marriage, okay. What did I miss about your
15 background that you would like for us to know?

16 **INMATE SIMS:** That's about it.

17 **PRESIDING COMMISSIONER LAWIN:** Well you went
18 to public school until the 11th grade, did you
19 drop out?

20 **INMATE SIMS:** Yes, I did.

21 **PRESIDING COMMISSIONER LAWIN:** Why?

22 **INMATE SIMS:** Drugs, low self-esteem,
23 hanging around with the wrong crowd.

24 **PRESIDING COMMISSIONER LAWIN:** Speaking of
25 drugs, it was PCP, Barbiturates?

26 **INMATE SIMS:** Yes.

27 **PRESIDING COMMISSIONER LAWIN:** And anything

1 else, marijuana, cocaine, anything of that sort?

2 **INMATE SIMS:** Not cocaine. Not really
3 marijuana. Mostly Shermans, PCP, and
4 Barbiturates.

5 **PRESIDING COMMISSIONER LAWIN:** And in fact
6 the PCP was a part of the commitment offense.

7 **INMATE SIMS:** Yes, Ma'am.

8 **PRESIDING COMMISSIONER LAWIN:** Anything
9 else?

10 **INMATE SIMS:** No, Ma'am.

11 **PRESIDING COMMISSIONER LAWIN:** All right,
12 well let's move on to your post-conviction. If
13 you'd turn your attention to Commissioner Harmon.

14 **DEPUTY COMMISSIONER HARMON:** Yes, good
15 afternoon, got to get the times right here.
16 Mr. Sims, what I want you to do first of all is
17 listen very carefully, because what I'm going to
18 do is go over your most recent history here, and
19 if it's inaccurate please let me know and we'll
20 correct it for the record. But it does show that
21 on July 25th, '02, you had a hearing, at which
22 time, I guess there was a split in the decision
23 and it was granted and the Board ultimately
24 overturned the decision and that's what brings us
25 here today, you received a one year denial.

26 **INMATE SIMS:** Yes, Sir.

27 **DEPUTY COMMISSIONER HARMON:** Okay, you were

1 received at CTF August 27th, 1997, from CCI?

2 **INMATE SIMS:** Yes, Sir.

3 **DEPUTY COMMISSIONER HARMON:** And your
4 current custody level is Medium A, with a revised
5 class score of 19 for lifers, is that right?

6 **INMATE SIMS:** Yes.

7 **DEPUTY COMMISSIONER HARMON:** Okay, what I'm
8 going to do is take parts of your counselor
9 report, and this is written by Counselor Pool,
10 looks like it was signed about December '03. I'm
11 going to cover the periods of time specifically
12 April of '02, until October 30th, excuse me,
13 October '03, and we'll take parts of that. And it
14 does show that from the beginning here, it says
15 you remained at CTF in the general population.
16 You were assigned to wing porter on August 17th of
17 '01, and at the time you remained in the position
18 receiving exceptional work performance grades. It
19 says you received NA laudatories on several
20 occasions. There was no psychiatric treatment.
21 You remained disciplinary-free. It says that your
22 work performance reports continued to show
23 exceptional work performance. You continued to
24 receive laudatories from NA. It says you received
25 a certificate of achievement for Effective
26 Communication dated October 14th of '03, from the
27 Emergency Management Institute. You received a

1 certificate of achievement for Leadership and
2 Influence, dated October 22nd of '03, from EMI.
3 And certificate of achievement for Decision Making
4 and Problem Solving August of '03, from EMI. And
5 you remained disciplinary-free through the
6 remainder of the period, and that kind of gets us
7 caught up. Now my records show that you're now,
8 let's see here, now that this period of time's
9 gone by you're still, because remember this only
10 goes up to October 30th, so several months have
11 gone by, you're still a wing porter, right?

12 **INMATE SIMS:** Yes, Sir.

13 **DEPUTY COMMISSIONER HARMON:** Okay, what
14 other accomplishments have occurred since
15 October 30th of last year that your counselor
16 didn't put in here?

17 **INMATE SIMS:** I guess the most recent
18 updated ones is the certificates from Emergency
19 Management Institute, nothing after that.

20 **DEPUTY COMMISSIONER HARMON:** Right, and
21 you've got quite a few certificates there.

22 **INMATE SIMS:** Yes.

23 **DEPUTY COMMISSIONER HARMON:** And since
24 October 30th of '03, what other certificates have
25 you earned?

26 **INMATE SIMS:** October 30th?

27 **DEPUTY COMMISSIONER HARMON:** Yes, in other

1 words, since around November 1st, what other
2 certificates have you gained from that program?

3 **INMATE SIMS:** None, I don't think, none.

4 **DEPUTY COMMISSIONER HARMON:** Okay, because I
5 think I've got what you've got. Okay, how about
6 any other accomplishments since October 30th,
7 anything else that your counselor forgot to put in
8 there, or neglected to put in at this point?

9 **INMATE SIMS:** No, not since October 30th,
10 no.

11 **DEPUTY COMMISSIONER HARMON:** Okay, I went
12 over your file, your files, plural. What I did
13 find is that you've completed a couple of
14 vocations, vocational silk screening in '92, and
15 vocational information technology programming in
16 '95. In '96 though you started vocational
17 drafting, took a couple, got a couple of
18 certificates of achievement, but never completed
19 that, right?

20 **INMATE SIMS:** Yes, due to transfer.

21 **DEPUTY COMMISSIONER HARMON:** Right, due to
22 transfer, it was a non-adverse transfer.

23 **INMATE SIMS:** Yes, Sir.

24 **DEPUTY COMMISSIONER HARMON:** Okay, I wanted
25 to point that out. Since coming to prison you've
26 held various assignments. Some of those
27 assignments include, you've worked in Adult Basic

1 Education. You've been on the dock crew. You've
2 worked in culinary and various positions. You've,
3 of course, worked as wing porter, what you're
4 doing now. And you were in the various vocational
5 programs and receiving very good work reports
6 throughout.

7 **INMATE SIMS:** Yes, Sir.

8 **DEPUTY COMMISSIONER HARMON:** You received
9 your GED in '89. I was going through your file
10 and noted that your TABE scores were kind of low
11 at the beginning and you took it upon yourself to
12 work them up. And as recently as '99 you ended up
13 with an overall of 12.9, which is about as good as
14 you can get, congratulations.

15 **INMATE SIMS:** Thank you.

16 **DEPUTY COMMISSIONER HARMON:** Yeah.
17 Self-help group programs, some of those programs
18 include, you've been through all the various
19 sexually transmitted diseases, TB, Hepatitis,
20 HIV/AIDS. You, and of course, we just talked
21 about the Emergency Management Institute. You've
22 been involved in NA for a number of years, you're
23 still in that now right?

24 **INMATE SIMS:** Yes, Sir.

25 **DEPUTY COMMISSIONER HARMON:** Okay, I'm
26 assuming you know the 12-steps?

27 **INMATE SIMS:** I know them, I honestly know

1 them, but if I was to have to recite them, I don't
2 know I might fall short.

3 **DEPUTY COMMISSIONER HARMON:** Well I'm not
4 here to trick you. I'm not here to trick you.
5 What about the eighth and ninth step, how are you
6 handling the eighth and ninth steps?

7 **INMATE SIMS:** The eighth and ninth steps?

8 **DEPUTY COMMISSIONER HARMON:** Yeah.

9 **INMATE SIMS:** Making amends, I've made
10 amends to everybody that's possible, that I could
11 make amends to, and I continue to take personal
12 inventories of myself on a daily basis. I think
13 that's eight and nine.

14 **DEPUTY COMMISSIONER HARMON:** Well isn't that
15 four?

16 **INMATE SIMS:** Making amends, is that making
17 a conscious decision to turn my will to my life,
18 well making amends might be four, I'm not for
19 sure. I'm kind of, I'm nervous.

20 **DEPUTY COMMISSIONER HARMON:** Okay, well like
21 I said, I'm not trying to trick you here. So what
22 have you done in the area of amends with victims
23 and that, what have you done there?

24 **INMATE SIMS:** Well as far as the victims are
25 concerned, I've been told by counselors and other
26 people that it's not always good to try to reach
27 out to your victims because sometimes they don't

1 want to hear from you and people can perceive that
2 to be, you know, take it another way. So what
3 I've done is I've tried to put myself in positions
4 to where I never make the same mistakes that I
5 made before and to put myself in a position to
6 where I can try to help others not make the same
7 decisions. But if I had a chance to apologize to
8 my victims, sure I would.

9 **DEPUTY COMMISSIONER HARMON:** Okay, thank
10 you. Part of your NA programs have included, you
11 also were involved in Time Out back in '95, which
12 I wanted to point out. You also, in '02, you went
13 through the Muslim program, Anger Management.

14 **INMATE SIMS:** Yes, Sir.

15 **DEPUTY COMMISSIONER HARMON:** In fact, if I
16 understand this correctly you do practice the
17 Islamic faith, is that right?

18 **INMATE SIMS:** Yes, I do.

19 **DEPUTY COMMISSIONER HARMON:** And you have
20 been involved and completed the Impact workshop in
21 '01, the Literacy Life Skill self-help program II
22 in '94, Chemical Dependency Recovery program in
23 '98, Men's self-help in the early '90's around
24 '92, the ROCK program, Reaching Out to Convicts
25 and Kids. You've done some, you've done the Value
26 Clarification and Responsibility Group Therapy
27 program in '97, and you've done a little group

1 therapy.

2 **INMATE SIMS:** Yes, Sir.

3 **DEPUTY COMMISSIONER HARMON:** Does that all
4 sound right?

5 **INMATE SIMS:** Yes, Sir.

6 **DEPUTY COMMISSIONER HARMON:** Did I miss
7 anything?

8 **INMATE SIMS:** No, Sir.

9 **DEPUTY COMMISSIONER HARMON:** Okay, good. I
10 pointed out your laudatories for the NA, which
11 you've had numerous over the years including the
12 Impact program in '01. Your disciplinaries,
13 there's been a total of seven, the most recent
14 November 12th, 1989, for fighting. Three 128's,
15 the last one October 14th, 1992, for work
16 responsibilities, basically what that was a deal
17 with shopping carts, right?

18 **INMATE SIMS:** The pushing a laundry cart.

19 **DEPUTY COMMISSIONER HARMON:** Right, right.
20 By the way, you also completed the Volunteer Tutor
21 Workshop in '94, a 12-hour program.

22 **INMATE SIMS:** Yes, Sir.

23 **DEPUTY COMMISSIONER HARMON:** Your, first of
24 all I want to commend you for not receiving any
25 serious 115's since '89.

26 **INMATE SIMS:** Thank you.

27 **DEPUTY COMMISSIONER HARMON:** You know

1 that's, what, 14 years.

2 **INMATE SIMS:** Right.

3 **DEPUTY COMMISSIONER HARMON:** Figured that
4 out right, so that's commendable. And, of course,
5 before that the seven you picked up weren't all
6 good, there's was violence involved there as you
7 know, and I don't see any of those cases that I
8 want to bring up at this time, other than the
9 fightings in there and that, okay. Let's see,
10 I've got a question for you, back in '81, there
11 was a write-up where you, everything looks to me
12 like you did attempt suicide.

13 **INMATE SIMS:** Yes, Sir.

14 **DEPUTY COMMISSIONER HARMON:** What have you,
15 how have you addressed that, in other words, how
16 are things going with you since that time? I mean
17 obviously you're sitting here and you're alive,
18 but it was a pretty serious thing.

19 **INMATE SIMS:** Well at that particular time
20 it was a real stressful time for me. I had life
21 without the possibility of parole. Again, low
22 self-esteem. And at that instance I had put
23 myself in a position where I had contraband, I had
24 some money, so that's how I ended up in the hole,
25 and with all of that, I mean, I can't really
26 explain why I did it other than what I just told
27 you. But since that time, since that incident,

1 like I said, I've done a lot of inventory with
2 myself to find out who I am as an individual and
3 who I am, you know, as a man, and my
4 responsibilities. So I look at that, I view that
5 as something that happened in the past that would
6 never happen again anyway.

7 **DEPUTY COMMISSIONER HARMON:** Okay, thank
8 you. I read that and it's a good thing that
9 officer walked by, huh?

10 **INMATE SIMS:** Yes, Sir.

11 **DEPUTY COMMISSIONER HARMON:** Right, okay.

12 **INMATE SIMS:** Yes, Sir.

13 **DEPUTY COMMISSIONER HARMON:** Your counselor,
14 your counselor says, let's see, that you pose a
15 low degree of threat. Once again, we'll go back
16 to Pool's report, I just have to find it again.
17 Low degree of threat to the public, and then goes
18 into the reasons why, you know, talking about your
19 history and all that, and feels that if you should
20 stop participating in AA --

21 **INMATE SIMS:** Yes, Sir.

22 **DEPUTY COMMISSIONER HARMON:** That your
23 threat to the public would increase.

24 **INMATE SIMS:** Yes, Sir.

25 **DEPUTY COMMISSIONER HARMON:** Be greater. Do
26 you agree with your counselor?

27 **INMATE SIMS:** My take on that is anybody,

1 yes, I agree with that. But I also believe that
2 anybody that uses drugs are a potential threat to
3 society. But, yes, if, I believe that if I was to
4 enter back into drugs again, you know, you don't
5 have no control.

6 **DEPUTY COMMISSIONER HARMON:** What makes you
7 a different man today than the man that walked
8 into prison?

9 **INMATE SIMS:** The person I was then, even
10 though I was on drugs I didn't like the person
11 that I was. I never really liked the drugs, but
12 anybody could tell you that a person that's hooked
13 on drugs, it doesn't matter if you like it or not,
14 if you're hooked on them, you use them. And that
15 was something that I always wanted to get away
16 from. I never really, like I said before, liked
17 myself on drugs. Seeing my brother die, my
18 brother died right in front of my face over, on a
19 drug overdose. Not only that, but I think the
20 major reason that I wanted to get my life together
21 was because of this situation right here. When I
22 found myself in this situation, I realized that I
23 had to get my life together. I had really stepped
24 over the line through drugs. And one thing I'm
25 more confident about myself is that I will never
26 use drugs again, because I feel that I'm lucky and
27 I'm blessed to even have my life today, to even

1 have my sanity today, dealing with the type of
2 drugs that I was using.

3 **DEPUTY COMMISSIONER HARMON:** Thank you, is
4 that it?

5 **INMATE SIMS:** Yes, Sir.

6 **DEPUTY COMMISSIONER HARMON:** I didn't know
7 if you had a complete thought or not there, okay.
8 The doctor's reports, let's go to that. It's been
9 a while since you've had a report. You, April of
10 '02, Bill Zika, Ph.D., indicates that no report
11 was created for the hearing based on policy. The
12 same thing occurred in '00, in August, and that
13 was from R.S. Coate, C-O-A-T-E. So I go back to
14 the recent, the most recent, it was July of '99,
15 and that was from Dr. Reed, R-E-E-D, I'll take
16 parts of that report, and start in the area of
17 plans if granted release. Dr. Reed says here in
18 part, his prognosis for successful community
19 living is good. Under clinical assessment, under
20 current mental status and treatment needs, he's
21 responding here to the day of the interview. And
22 it says that your mood and affect were within the
23 normal limits and your behavior was appropriate to
24 the setting. No evidence of a mood or a thought
25 disorder was demonstrated. Your estimated level
26 of intellectual functioning was within the average
27 range. Under current diagnostic impressions,

1 under Axis I: PCP Abuse in Sustained Full
2 Remission in a Controlled Environment, Barbiturate
3 Abuse in Sustained Full Remission in a Controlled
4 Environment. Axis II: no contributory
5 personality disorder. And Axis III: no
6 contributory physical disorder. And then the
7 doctor goes on to write here, his current level of
8 insight and judgment is good and supports a
9 positive prediction of successful adaptation to
10 community living. Under review of the life crime,
11 in part, he showed sincere empathy towards his
12 victims and seemed genuinely penitent for his
13 crime. Under assessment of dangerousness, in
14 part, violence potential within a controlled
15 setting is considered to be well below average
16 relative to the Level II inmate population and if
17 released to the community his violence potential
18 is considered to be no more than the average
19 citizen in the community. Once again, the doctor
20 also says, drug abuse is a risk factor which may
21 be a precursor to violence for this individual.
22 Clinical observations, comments, recommendations,
23 in part, this inmate does not have a mental health
24 disorder which would necessitate treatment during
25 his incarceration period or upon parole; that was
26 signed by Dr. Reed. So what I've done here, sir,
27 is I've taken parts of the doctors' reports,

1 counselor's report and parts of your institutional
2 adjustment. I may have inadvertently left out
3 areas that are very important to you. I'm going
4 to move on to our parole plans, but before I do,
5 is there anything that you wish to add in any of
6 those areas?

7 **INMATE SIMS:** No, Sir.

8 **DEPUTY COMMISSIONER HARMON:** Okay, thank
9 you. I'll return to the Chair.

10 **PRESIDING COMMISSIONER LAWIN:** Thank you.
11 Before we go to parole plans, let me just correct
12 the legal status, because I'd indicated that the
13 commitment offense was count number one, it
14 wasn't, it's count number seven. And I neglected
15 to add that the additional offense of robbery,
16 that was count number eight, as was the
17 enhancement. And we'll go to Commissioner Risen.

18 **COMMISSIONER RISEN:** Regarding parole plans,
19 the Board report indicates that you plan to reside
20 with your wife, is it Genia?

21 **INMATE SIMS:** Yes, Sir.

22 **COMMISSIONER RISEN:** Genia Sims, that's
23 spelled G-E-N-I-A, and she lives in Fontana,
24 California, there is a letter in the file dated
25 June of 2003, supporting that. Regarding
26 employment, you intend to seek employment as a
27 counselor with the Youth Services Unlimited

1 Organization, working with Mr. Charles J. Lovely,
2 L-O-V-E-L-Y, Senior. He's the CEO, Executive
3 Director of that group, and it's located in Los
4 Angeles, California, and there's a letter from him
5 dated July 25th, 2003. Okay, so we'll go to your
6 letters of support in the file. There's a letter
7 of support from Mr. Lovely. He indicates that, I
8 have in the past stated that I would do everything
9 in my power to assist Mr. Sims obtaining
10 employment and any other services he needed. I've
11 known Tony Sims for over 26 years. And he goes on
12 in the last paragraph, if our budget holds strong,
13 I will hire him part time and/or full time to a
14 position. I'm sure you know how non-profits have
15 numerous shortfalls as the economy comes and goes,
16 and it's signed by Mr. Lovely. How did you meet
17 him?

18 **INMATE SIMS:** I've been knowing Mr. Lovely
19 since about 1972. He was a counselor then. He
20 was, had a youth center then, and he used to take
21 us like on picnics, you know, kids in the
22 neighborhood on picnics and been to the movies and
23 stuff like that.

24 **COMMISSIONER RISEN:** It sounds like his
25 organization has been there for quite a while.

26 **INMATE SIMS:** Yes, it has.

27 **COMMISSIONER RISEN:** Okay, and then the next

1 letter is from Missionary Diane Brown Davis, it's
2 a letter of support, dated June 3rd, 2003. The
3 next letter is from your wife, Ms. Genia Sims, she
4 lives in Fontana, it's dated in June 2003. Won't
5 you let him come home. You will be doing the
6 right thing. And then there's a letter here from
7 your sister-in-law.

8 **INMATE SIMS:** Yes.

9 **COMMISSIONER RISEN:** Carolyn Windham.

10 **INMATE SIMS:** Yes, Sir.

11 **COMMISSIONER RISEN:** And it's dated June of
12 2003. She says I can offer him my love and
13 support the best way that I can, a letter of
14 support. Then Elder Earl Windham, that's your
15 father-in-law.

16 **INMATE SIMS:** Yes, Sir.

17 **COMMISSIONER RISEN:** And it's dated June
18 2003, and it's a letter of support from him. Then
19 a letter from you and why don't you explain that
20 letter to us, it's unusual.

21 **INMATE SIMS:** Well that letter is pertaining
22 to Ms. Deborah Collins, and she wrote a letter of
23 support for me. But in the letter she stated that
24 she is my wife. And I didn't find out that she
25 had wrote the letter until after she had sent it
26 off, and I wanted to correct that. So I had to
27 write the Board a letter letting them know that

1 that's not the case.

2 **COMMISSIONER RISEN:** Okay, and how long have
3 you known her?

4 **INMATE SIMS:** Almost 10 years.

5 **COMMISSIONER RISEN:** Okay, and then the next
6 letter would be from Deborah Collins Sims.

7 **INMATE SIMS:** That's the one.

8 **COMMISSIONER RISEN:** Yeah, and it's dated
9 February 6th, 2003.

10 **INMATE SIMS:** Right.

11 **COMMISSIONER RISEN:** And it is a letter of
12 support.

13 **INMATE SIMS:** Yes, it is.

14 **COMMISSIONER RISEN:** But she does say that
15 she is your wife.

16 **INMATE SIMS:** Yes.

17 **PRESIDING COMMISSIONER LAWIN:** It's kind of
18 funny, because the letter, there are two letters
19 from her and the one before that she's not your
20 wife, and she doesn't use Sims.

21 **INMATE SIMS:** Yeah.

22 **COMMISSIONER RISEN:** Okay.

23 **PRESIDING COMMISSIONER LAWIN:** Confused.

24 **COMMISSIONER RISEN:** Okay, how do you plan
25 to remain substance-free once you're released?

26 **INMATE SIMS:** Oh, I will remain in NA. I
27 would always go to meetings. I really have a

1 minus zero tolerance for drugs, meaning I don't
2 want them around me or anybody that messes with
3 them around me, so I'm stuck on that.

4 **COMMISSIONER RISEN:** Okay, now one of the
5 things that's going to come up is the fact that
6 your job offer's in Watts and you'll live in
7 Fontana, quite a distance, how will you reconcile
8 that?

9 **INMATE SIMS:** Well, as far as
10 transportation, my wife has a job, I mean a car,
11 so I have transportation. It would probably be up
12 to my parole officer if he would let me --

13 **COMMISSIONER RISEN:** From one county to
14 another?

15 **INMATE SIMS:** Yeah, from one county to
16 another, so I really don't know.

17 **COMMISSIONER RISEN:** What does your wife do
18 for a living?

19 **INMATE SIMS:** She's on disability.

20 **COMMISSIONER RISEN:** Oh, that's right, she
21 is on disability. Okay, I have nothing further.
22 Well, 3042 letters, I have, I always forget those.
23 As part of the hearing process we send letters to
24 the different government agencies that were
25 involved in the investigation and prosecution of
26 your case, like the presiding judge of the
27 superior court, the District Attorney's office.

1 We received one response and that was from the Los
2 Angeles County District Attorney's office, and
3 they are here today, so they'll be participating
4 in the hearing by asking you questions, or they'll
5 have an opportunity in a few moments to ask you
6 questions through the Chair. And later they can
7 comment on your suitability for parole. And we
8 did also receive a letter from the Los Angeles
9 County Sheriffs Department, dated December 12th,
10 2003, from Frank Merriman, M-E-R-R-I-M-A-N,
11 Captain with the Homicide Bureau. And quoting
12 them, it says, "it is the opinion of the
13 department that parole of inmate Sims is
14 inappropriate and should be denied," so we do have
15 a response from the Sheriffs Department. At this
16 point we'll go to, back to the Chair.

17 **DEPUTY COMMISSIONER HARMON:** Can we take a
18 break here?

19 **PRESIDING COMMISSIONER LAWIN:** Sure.

20 [Thereupon, the tape was turned over.]

21 **DEPUTY COMMISSIONER HARMON:** Go ahead.

22 **PRESIDING COMMISSIONER LAWIN:** Thank you. I
23 guess it's time for questions, but I just want to
24 make, put your mind at ease. Step number four is
25 making a searching and fearless moral inventory.
26 Step number eight is make a list of all persons we
27 have harmed. And nine is make amends. And I had

1 to look them up because I don't know them.

2 **INMATE SIMS:** Thank you.

3 **PRESIDING COMMISSIONER LAWIN:** All right, I
4 have no questions. Commissioner, questions?

5 **COMMISSIONER RISEN:** I have none at this
6 point.

7 **PRESIDING COMMISSIONER LAWIN:** Commissioner
8 Harmon?

9 **DEPUTY COMMISSIONER HARMON:** My questions
10 focus around the life crime, no.

11 **PRESIDING COMMISSIONER LAWIN:** Mr. Dahle?

12 **DEPUTY DISTRICT ATTORNEY DAHLE:** No
13 questions.

14 **PRESIDING COMMISSIONER LAWIN:** Mr. Spowart.

15 **ATTORNEY SPOWART:** I have none.

16 **PRESIDING COMMISSIONER LAWIN:** Then we'll go
17 back to closing, Mr. Dahle.

18 **DEPUTY DISTRICT ATTORNEY DAHLE:** Thank you.
19 The District Attorney of Los Angeles, vigorously
20 opposes a grant of parole to Mr. Sims. Mr. Sims
21 was a willing 22 year old participant in the
22 brutal robbery murder of a young man who offered
23 no resistance, was simply working, earning his
24 wage, when he was approached by three individuals,
25 taken inside the location, begged for his life,
26 and was then blown up with a shotgun, two rounds,
27 one to the chest, one to the back, either one of

1 which would have been a fatal round. The inmate
2 received, after leaving that location, a paltry
3 sum of money. The crime partners apparently
4 received \$129 out of this particular crime. But
5 for the fortuitous act of a disagreement
6 philosophically between two different courts, this
7 inmate would still today be serving a life
8 sentence; not because of a change in facts, not
9 because of a change in rulings on any of the
10 evidence, but with philosophy relative to whether
11 or not to impose the punishment he originally
12 received, the prosecution would have been required
13 to prove specific intent to kill as part of the
14 elements of the crime. He has gained, because one
15 court ruled that was a requirement, the benefit of
16 that decision, even though a later court has
17 rejected, repudiated that philosophy. This Board
18 needs to look at each and every murder on an
19 individual basis. And murders of the first degree
20 should be viewed carefully, particularly those
21 that involve the conduct that has been identified
22 as special circumstance where the crime has been
23 committed during the course of another serious and
24 violent felony. The inmate, according to the
25 record, knew his crime partner, Mr. Williams, for
26 a substantial period of time; indeed throughout
27 his teenage years. Indeed through the period he

1 knew the one gentleman that has written a letter
2 of support and had a youth center. Mr. Williams
3 had been known to this inmate for a period of over
4 eight years. And despite the protestations that
5 the inmate was fearful of Mr. Williams, he
6 nonetheless continued an association of nearly a
7 decade growing up through his teenaged years to an
8 adult of 22 and willingly went out with him as a
9 participant and with another individual and
10 committed this horrendous act. Albert Owens has
11 no opportunity whatsoever to rehabilitate himself
12 or his life. He has no ability to demonstrate any
13 change, any positive activity; that was taken away
14 from him by these three individuals working in
15 concert for a robbery that netted a grand total of
16 less than \$150. This is a crime of the most
17 serious nature, that for the time period the
18 inmate has served it's simply inadequate in
19 repayment to society for the harm that this inmate
20 caused, as well as his crime partners. This
21 particular offense of robbery and murder that
22 occurs in the course of it, is an ultimately
23 reasonable expectation for anyone committing the
24 crime of robbery that that will happen, that
25 violence will ensue during a violent crime.
26 Nonetheless, this inmate went through with this.
27 And there had been a prior attempt at a robbery

1 even before this particular incident that resulted
2 in Mr. Owens' demise. I believe a far longer
3 period of time is warranted, not only as
4 punishment, but to determine that this is a
5 lifetime change by Mr. Sims that will last. I do
6 not believe at the present time there is adequate
7 information here to warrant a grant, and my
8 opinions expressed at the hearing at the last
9 proceeding in 2002, I'm sorry, 2003, I believe
10 still stand and I would ask the Panel to consider
11 those arguments as well. Thank you, submitted.

12 **PRESIDING COMMISSIONER LAWIN:** Thank you.
13 And it would have been July 24th, 2002. Thank
14 you.

15 **DEPUTY DISTRICT ATTORNEY DAHLE:** I was right
16 the first time, sorry.

17 **PRESIDING COMMISSIONER LAWIN:** Mr. Spowart.

18 **ATTORNEY SPOWART:** To begin with, he did
19 receive a first-degree murder and it's true
20 (inaudible) he was life without parole. How did
21 he get there? He didn't kill anybody. He got
22 there because of the felony murder rule. If you
23 commit, during the commission of a robbery,
24 somebody's killed, that's it, ipso facto. Another
25 court said, wait a minute, you've got to have
26 intent here. Why is that important? The District
27 Attorney here today states there were three

1 individuals; there were four individuals. One guy
2 rolled on the others and he got off, he was never
3 charged, I just want the Board to be aware of
4 that. Not excusing my client, because he is
5 throughout in the past has maintained that, and in
6 his opening statement, nobody has a right to take
7 the life of anybody else, whether you're sane or
8 insane, every life is important, and he
9 understands that. He was extremely depressed at
10 one time and wanted to commit suicide; that's not
11 an excuse, because he's expressed because he was
12 in here where he deserved to be. But he
13 understands that and since then he's been working,
14 he's been working to better himself. Look at the
15 letters of support, look at what he's
16 accomplished. A GPL of 12.9, got his NA/AA, he
17 got his GED, completed anger management, completed
18 Impact workshop, and on and on and on. If you
19 look at the Board report, his list of
20 accomplishments. Since he's been down he has not
21 wasted his time. Look at the psych reports. Look
22 at all the prior hearings, what the Board's
23 thought. He's never had, I don't believe he's
24 ever had a hearing where he got more than a one
25 year denial. And in '01, the last hearing was a
26 split decision, and the parole board found him
27 unsuitable and the prior decision was a majority

1 decision where one voted for suitability. He's
2 been on very close scrutiny all these hearings,
3 and I believe for murder one, when he comes in
4 here and constantly gets a no more than a one year
5 denial, that tells you something about what former
6 Boards and I hope you realize today in his
7 answers. He didn't want to talk about the life
8 crime because he said it's there, he takes
9 complete responsibility for it. I wanted him to
10 talk about it so he could point out, hey, I wasn't
11 the shooter. In fact, in one of the, I believe it
12 was the probation officer's report, they mention
13 that. He had asked the (inaudible), why did you
14 shoot him, and then the shooter said, well no
15 witnesses. Clearly, he never intended to kill
16 anybody. However, having said that, the reason
17 for the felony murder rule is to dissuade people
18 from doing that, because if somebody, there's
19 always the chance somebody's going to get hurt.
20 He's been down close to, what, 25 years now.

21 **INMATE SIMS:** Yes, Sir.

22 **ATTORNEY SPOWART:** Yeah, which is 25 plus
23 one to life. His minimum eligible parole date was
24 '94, 8/14/94. I would ask the Board to look at
25 what he's done with his life since then. At 22,
26 with a group of friends they decide to commit a
27 robbery, okay, he did it, and an individual lost

1 his life; he's paying for that. He did not kill
2 anybody. He did not want to kill anybody. But
3 that victim lost any chance that he had of his
4 life and he was a clerk, you know, working for a
5 living, and he did not deserve to die. My client
6 has paid for the crime that he committed. The
7 issue now is not then, you couldn't look at him
8 then and say he's not an unreasonable risk, he
9 certainly was, his lifestyle was. But his life
10 now, what is his life now. The Board report, in
11 fact, look at all his Board reports. A low degree
12 of threat, considering the commitment offense,
13 prior record and prison adjustment, this writer
14 believes the prisoner would pose a low degree of
15 threat to the public if released at this time.
16 Which says, is he an unreasonable risk, no,
17 because if he thought he was an unreasonable risk,
18 they would have said, he's unpredictable or
19 something else and they wouldn't make that
20 decision. The psych report is an excellent psych
21 report and it goes into. Inmate Sims has attended
22 a number of self-help group in 1992, Men's self-
23 help group, from 1993 to 1996, Reaching Out to
24 Convicts and Kids. In 1997, he completed Values,
25 Clarification, Responsibility group therapy
26 conducted by Dr. (inaudible), who subsequently
27 wrote, Mr. Sims is a responsive and thoughtful

1 participant in the group. In 1998, he completed
2 the chemical dependency recovery program. His
3 current level of insight and judgment is good and
4 supports a positive prediction of successful
5 adaptation to community living. He gives, this
6 psych report gives reasons for his decisions. He
7 doesn't just write glib things, he quotes why he's
8 doing this. Review of life crime, he showed
9 sincere empathy towards the victim and seemed
10 genuinely penitent for this crime. And I think
11 today, his opening statement, nobody has a right
12 to take anybody's life, no one has that right. He
13 thought he insightfully observed the role that
14 drug abuse and affiliation with the wrong people,
15 low self-esteem and availability of weapons had in
16 leading to the instant offense. Dose he pose a
17 risk? He has remained completely
18 disciplinary-free in the last seven years.
19 Therefore, in light of these factors (inaudible),
20 his violence potential within a controlled setting
21 is considered to be well below average relative to
22 this inmate population. So he said this inmate is
23 considered to be well below average. If released
24 to the community and that's where we're concerned
25 with, his violence potential is consider to be no
26 more than the average citizen in the community, no
27 more than the average citizen in the community.

1 Why? Because he's not 22. He's 44 --

2 **INMATE SIMS:** Forty-seven.

3 **ATTORNEY SPOWART:** Forty-seven, that's a big
4 difference. He's 27 years older. He's gone
5 through a lot. He's done a lot of programs that
6 he's worked through. He's seen being in here,
7 other inmates, he's seen a side of life that he
8 wants no part of anymore. He's worked to get
9 himself out. He has a job offer. He has a place.
10 He has letters of support. This man can be a
11 valuable addition to society. With his outlook
12 and his, like he said, he doesn't want to even be
13 anywhere near a person with drugs or to get in
14 anyway involved with them. I'm going to close now
15 because he has a closing statement, but I think
16 this is an excellent candidate for parole and I'm
17 going to ask that he be granted a finding of
18 suitability today. I'll submit it.

19 **PRESIDING COMMISSIONER LAWIN:** Thank you.
20 Mr. Sims, do you have a closing statement you'd
21 like to make?

22 **INMATE SIMS:** Yes, I'd like to read a
23 statement. Mr. Owens was a 24-year-old young man,
24 working and going to school trying to find his
25 place in society in order to better his life as
26 well as his family life. Mr. Owens did not
27 deserve to have his life taken away; I would never

1 believe otherwise. His family did not deserve the
2 everlasting heartache that has been placed upon
3 them. I know this may be a meaningless statement
4 to some. But for me it is a thought that I have
5 carried for the past 25 years, which is that I
6 wish that I could turn back the hands of time and
7 yet I know that that kind of wish would never be
8 reality. I could never give back what was take
9 from Mr. Owens and his family, no matter how hard
10 I wish I could. However, God knows what's in my
11 heart. He knows that Mr. Owens and his family are
12 in and will remain in my prayers every single day
13 of my life. I ask God everyday for forgiveness
14 and I ask the family of Mr. Owens through my
15 prayers every single day for forgiveness. Whether
16 I'm here or back in society, I will never lose the
17 human side of me again. The animal part of man is
18 nothing to be proud of. As I'm sure this Panel
19 knows, I have experienced three deaths in my
20 family. I sincerely know and understand that that
21 is one of the most devastating blows anyone can be
22 faced with. I still haven't gotten over the loss
23 of my father and my brothers, nor do I ever want
24 to. I wish the loss of life on no one. When you
25 have lost the life of those that you love, it
26 opens you up to how precious life really is, how
27 precious Mr. Owens was to his family and others.

1 God knows my heart. I could not ask God to watch
2 over those that I have lost without asking him to
3 watch over Mr. Owens and his family. To me that
4 would be for the lack of a strong word, shameful,
5 sinful, and outright despicable. At one point in
6 my life, through drugs and low self-esteem, I was
7 a shameful, sinful and outright despicable human
8 being. At that time, I was also mentally and
9 morally unbalanced. But through accepting these
10 facts of my past life is what has gotten me to
11 this point in my life today. I have allowed
12 myself to find my true self underneath those
13 things. I once had no sense of good direction for
14 my life. I couldn't have it in order to have
15 allowed myself to get caught in something where a
16 human being loses his life, which only God can
17 give and which should only be in God's hands to
18 take away. Through the process of really taking a
19 long look at myself, I was able to dig down deep
20 inside myself. And today I sit here before you 25
21 years later, and 25 years older, drug-free, low
22 self-esteem-free, mentally and morally balanced,
23 no longer a shameful, sinful, despicable human
24 being thanks to God. Twenty-five years ago, I was
25 a young man who couldn't spell young. I was a
26 young man who didn't want to live and tried to
27 prove it because my days began and ended with

1 harsh tranquilizers as my drug of choice. But
2 through the blessings of God and the love and help
3 of others, I have been able to do a lot of
4 personal inventories of my life. From the age of
5 four up until this very day, through my
6 immaturities, I can tell this Panel or anyone else
7 in this world, when, where and how I got to this
8 point in my life, step by step. Some may think
9 I'm seeking sympathy, although a little sympathy
10 never hurts anyone. But that is not what has
11 formed these thoughts that I am expressing to you
12 today. I'm speaking from the truth of my heart.
13 I'm asking you to please see me as the man I have
14 fought so hard to become in this environment of
15 sometime never changing attitudes where sometimes
16 positive change is seen as a weakness. I ask you
17 to please judge me for the person I have turned
18 out to be, not the person I was in my pathetic
19 past life 25 years ago. God didn't intend for me
20 to stay the same and I haven't. Today I know my
21 true purpose in this life. I know that using the
22 kinds of drugs that I was using, I could be
23 sitting here out of my mind not knowing that I'm
24 even here. God has revealed to me my true purpose
25 in this life which is to take my experiences and
26 to be at my best in helping others who find
27 themselves in the same state of mind I was once

1 in. By removing the low self-esteem and the drugs
2 from my life, I've been able to prepare myself to
3 help others who are faced with those same issues
4 that I was. Whether it's in the church or school,
5 or on the streets, I know I have the insight and
6 the will to help society to be a better place for
7 our youth and others. I'm not sitting here
8 confessing to know all the answers, I don't. I
9 don't think no one person does. But I have a
10 heart and a mind that will put me at my best in
11 trying alongside those who are sincerely trying to
12 change the ways and attitudes of our youth. Some
13 may ask, is this my way of giving back to society.
14 I would have to say no to them. I don't feel this
15 is my way of giving back to society, to me that
16 would be self-deception. I could never give back
17 the life of Mr. Owens. I can only be at my best
18 to try and save the lives of others. I have a
19 positive message in my heart today that is burning
20 to be free. I ask the members of this Panel today
21 to please see and understand that I no longer pose
22 a threat to anyone in society, nor to myself as I
23 once did. I ask this Panel, please don't judge me
24 for my past, in no way am I proud of it. And as I
25 said earlier, in no way am I the same, but to
26 judge me today as the 47 year old man that sits
27 before you today with a beneficial purpose in

1 life. As I've stated before, and as I will
2 continue to state for others, whoever they are,
3 wherever they are, my message is I used to be a
4 low self-esteem drug head who followed anybody
5 that had drugs solely so that I could fit in.
6 That's what low self-esteem and drugs does to you,
7 they place you under the thumbprint of others and
8 your life and your thoughts at that point means
9 nothing to yourself for those people that you
10 followed behind, who sees you as a flunky for
11 their twisted underhanded deeds. I have fought
12 the hard fight and won to understand who I am as
13 an individual and who I am as a man and my role in
14 this society. I sit here again today as I have
15 many times before with my heart stuck in my
16 throat, praying and hoping that I will receive a
17 vote of confidence from this Panel today to find
18 me suitable for parole. I know that I can and
19 will be a positive addition to society. As I have
20 stated before, I don't have all the answers to the
21 problems that the youth of society are faced with
22 today, but I know without any doubt that God has
23 given me a second chance and the insight to help
24 illuminate some of them. I honestly believe this
25 is why God didn't take my mind or my life and I
26 thank God everyday for blessing me with another
27 chance and I humbly ask the members of this Panel

1 to please give me one today. It is said, the
2 heart is where the home is, and I have longed for
3 the past 25 years to be there. Through the
4 blessings of God and the understanding of this
5 Panel, hopefully today will be my day to get
6 there. I've seen and learned so much in the past
7 25 years about myself and about the ways of other
8 human beings, the ways I wish I would have lived
9 my life and the way I will live the rest of my
10 life. I dedicate the rest of my life trying to
11 help others by using my eye of life to see and
12 understand how easy it is to waste and lose life
13 through the misguidance of others and low self-
14 esteem of self. One more very important thing I
15 ask of the members of this Panel today and that is
16 please, sincerely please, don't judge me through
17 the ways and actions of others who has not brought
18 a change in their lives over the years. I am no
19 longer under anyone's self-destructive influence.
20 I am my own man and today I stand on my own two
21 feet. I no longer seek the definition of me
22 through the minds and eyes of others. I've seen
23 too much death. I've heard of too much death.
24 I've seen too much pain. I've heard of too much
25 pain in my lifetime and I want to be amongst the
26 people who are trying to make a difference to stop
27 the deathly pain. I have made a conscious

1 decision to live the rest of my life trying to be
2 a positive influence in the lives of others.

3 Please allow me that chance today. Thank you.

4 **PRESIDING COMMISSIONER LAWIN:** Thank you.

5 We'll take a recess and bring you back when we
6 have a decision.

7 **R E C E S S**

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CALIFORNIA BOARD OF PRISON TERMS**D E C I S I O N**

DEPUTY COMMISSIONER HARMON: You're on record.

PRESIDING COMMISSIONER LAWIN: Thank you, and all parties have returned to the room in the hearing of Tony Sims. The Panel has reviewed all information received from the public and relied on the following circumstances in concluding that the prisoner is not yet suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. This is a one-year denial. The commitment offense was the murder of Albert Lewis Owens, a 24-year-old clerk. He was shot to death by the inmate's crime partner, Stanley Williams, after Mistery Sims, Williams, Coward, and a man by the name of Darrell went out seemingly with the intent purpose to rob to get some money. And they went to three different locations. At this location, Mr. Owens lost his life during the course of their robbing of the store. The crime is especially callous in that the victim was taken to a back room where he was shot to death, unsuspecting clerk at a convenience store. While this was being done, the other crime partners were robbing,

TONY SIMS C-31090 DECISION PAGE 1 2/5/04

1 taking from the store, primarily from a cash
2 register. The crime also shows a lack of regard
3 for the life and suffering of others, plural,
4 because Mr. Owens lost his life in this crime.
5 But there certainly was the opportunity for others
6 to be injured in that they did go to a couple of
7 other locations and were armed during the course
8 of all of these stops. The motive for the crime
9 is so trivial. Again, this man lost his life over
10 less than \$200, around \$150. In terms of
11 background, the prisoner has a history of
12 criminality. He had failed previous attempts to
13 correct that criminality. Those attempts included
14 juvenile probation, county jail, and adult
15 probation. He had been convicted for offenses
16 such as vehicle theft, carrying a concealed
17 weapon, possession of marijuana, and burglary. He
18 also had an unstable social history, dropped out
19 of high school, he was a drug user, primarily PCP,
20 also Barbiturates. There is a psych report in the
21 file, the most recent evaluation's dated
22 July 13th, 1999, by Dr. Joe Reed, and it is
23 generally supportive of release. It says his
24 current level of insight and judgment is good and
25 supports a positive prediction of successful
26 adaptation to community living. The Panel,

27 **TONY SIMS C-31090 DECISION PAGE 2 2/5/04**

1 however, is going to request that a new
2 psychological evaluation be conducted prior to the
3 next hearing, not because there's anything wrong
4 with this one, but we want the next Panel to have
5 an up to date evaluation, so it cannot be said
6 that they relied upon old information. The inmate
7 has appropriate parole plans. He has a place to
8 live and he has a place to work. The hearing
9 Panel notes that responses to PC 3042 Notices,
10 include opposition to a finding of parole
11 suitability from the Los Angeles County Sheriffs
12 Department and Los Angeles County District
13 Attorney's office. The Panel finds that the
14 inmate needs continued participation in self-help
15 to continue to develop those skills that will
16 allow him to remain clean and sober, to deal with
17 stress in a non-destructive manner, and to
18 continue to delve into the causative factors for
19 his participation in the life crime. Until
20 further progress is made, he continues to be
21 unpredictable and a threat to others.
22 Nevertheless, he has much to be commended for. He
23 has had a very positive program, not having
24 received a 115 in nearly 14 years or over 14
25 years, the last one November 12th, 1989, for fist
26 fighting, that was the last of seven. He's not
27 **TONY SIMS C-31090 DECISION PAGE 3 2/5/04**

1 received a 128(a) counseling chrono since
2 May 24th, 1999, that was for window covering and
3 it was the last of three. He's to be commended
4 for having acquired his GED and maintaining a high
5 TABE score, 12.9, which is the highest that you
6 can achieve. He is to be commended for completing
7 silk screen and vocational information technology.
8 He also spent some time in drafting. The list of
9 self-help contains courses from FEMA, they are
10 ongoing, these are voluntary, this is a program
11 that the inmate has chosen to become involved in.
12 So he's to be commended for his initiative there,
13 learning something that's sort of a cross over
14 between education, vocation, and self-help. He's
15 to be commended for his participation in NA and
16 previously in courses such as anger management,
17 Impact, ROCK, group therapy, Life Skills. Also
18 for his work, apparently, as a porter, and
19 previously in ABE and culinary and as a member of
20 the dock crew. Positive aspects of his behavior
21 do not yet outweigh the factors of unsuitability.
22 During the course of the next year, Mr. Sims, the
23 Panel recommends that you remain disciplinary-free
24 and, when available, that you add to your current
25 self-help program. You're doing a good program.
26 We just ask that you continue to add to it. Your

27 **TONY SIMS C-31090 DECISION PAGE 4 2/5/04**

1 crime is just one that is horrendous and it's
2 difficult to overcome, it's difficult to get past.
3 That doesn't mean that you won't. Obviously,
4 Commissioner Angele was able to get past that and
5 we just could not get there today. And I wish you
6 good luck.

7 **INMATE SIMS:** Yes, Ma'am. Thank you.

8 **PRESIDING COMMISSIONER LAWIN:** Commissioner.

9 **COMMISSIONER RISEN:** I would agree with
10 Commissioner Lawin. You've dug yourself kind of a
11 deep hole here and it takes time and healing to
12 get over it, and it's going to take some time, I'm
13 sorry to say.

14 **PRESIDING COMMISSIONER LAWIN:** Commissioner
15 Harmon.

16 **DEPUTY COMMISSIONER HARMON:** I haven't nothing
17 further, other than to wish you luck, sir.

18 **PRESIDING COMMISSIONER LAWIN:** Thank you.

19 That will conclude the hearing. It is 1:15.

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25 **PAROLE DENIED ONE YEAR**

26 **FINAL DATE OF DECISION: -June 4, 2004.**

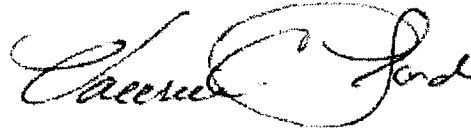
27 **TONY SIMS C-31090 DECISION PAGE 5 2/5/04**

**CERTIFICATE AND
DECLARATION OF TRANSCRIBER**

I, VALERIE C. LORD, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 58, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, AT SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of TONY SIMS, CDC No. C-31090, on FEBRUARY 5, 2004, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated February 18, 2004, at Auburn,
California.



Valerie C. Lord
Transcriber
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